

**RESOLUTION AUTHORIZING ASSIGNMENT AND ASSUMPTION
AND PUBLIC HEARING RELATING TO ADDITIONAL FINANCIAL ASSISTANCE
41 CROSS STREET HOSPITALITY LLC PROJECT**

A regular meeting of Columbia County Industrial Development Agency (the “Agency”) was convened in public session at the offices of the Agency located at One Hudson City Centre, Suite 301 in the City of Hudson, Columbia County, New York on August 6, 2024 at 8:30 o’clock a.m., local time.

The meeting was called to order by the (Vice) Chairperson of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

Carmine Pierro	Chairperson
Sarah Sterling	Vice Chairperson
Nina Fingar-Smith	Secretary
Robert Galluscio	Treasurer
Bill Gerlach	Ethics Officer
Brian Keeler	Member

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

F. Michael Tucker	Chief Executive Officer
Lisa Drahushuk	Administrative Supervisor
Andrew B. Howard, Esq.	Agency Counsel
Christopher C. Canada, Esq.	Special Counsel

The following resolution was offered by _____, seconded by _____, to wit:

Resolution No. 0824-__

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY BY COLUMBIA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE “AGENCY”) OF CERTAIN DOCUMENTS WITH RESPECT TO THE ASSIGNMENT AND ASSUMPTION OF THE 41 CROSS STREET HOSPITALITY LLC PROJECT (THE “PROJECT”) AND AUTHORIZING THE CHIEF EXECUTIVE OFFICER OF THE AGENCY TO HOLD A PUBLIC HEARING REGARDING CERTAIN ADDITIONAL FINANCIAL ASSISTANCE RELATING TO THE PROJECT.

WHEREAS, Columbia County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 305 of the 1975 Laws of New York, as amended, constituting Section 895-1 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, civic, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing

economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on May 10, 2017 (the “Closing”), the Agency granted certain financial assistance to 41 Cross Street Hospitality LLC (the “Original Company”) to assist in financing a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in an approximately .50 acre parcel of land located at 39-41 & 43-51 Cross Street (tax map no. 109.43-1-62) in the City of Hudson, Columbia County, New York (the “Land”), together with the existing building located thereon containing approximately 40,800 square feet of space (the “Existing Facility”), (2) the renovation, reconstruction and upgrading of the Existing Facility and related improvements located on the Land (the “Improvements”) (the Existing Facility and the Improvements hereinafter collectively referred to as the “Facility”), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (collectively, the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility to the Original Company pursuant to the terms of the lease agreement dated as of May 1, 2017 (the “Lease Agreement”), by and between the Original Company and the Agency; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the “Closing”), (A) the Original Company executed and delivered to the Agency (1) a certain lease to agency dated as of May 1, 2017 (the “Lease to Agency”) by and between the Original Company, as landlord, and the Agency, as tenant, pursuant to which the Original Company leased to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the “Leased Premises”); (2) a certain license agreement dated as of May 1, 2017 (the “License to Agency”) by and between the Original Company, as licensor, and the Agency, as licensee, pursuant to which the Original Company granted to the Agency (a) a license was entered into upon the balance of the Land (the “Licensed Premises”) for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Original Company, an additional license was entered into upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; and (3) a certain bill of sale dated as of May 1, 2017 (the “Bill of Sale to Agency”), which conveyed to the Agency all right, title and interest of the Original Company in the Equipment; (B) the Original Company and the Agency executed and delivered (1) a certain payment in lieu of tax agreement dated as of May 1, 2017 (the “Payment in Lieu of Tax Agreement”) by and between the Agency and the Original Company, pursuant to which the Original Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility, (2) a certain recapture agreement (the “Section 875 GML Recapture Agreement”) by and between the Original Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes and (3) a certain uniform agency project agreement dated as of May 1, 2017 (the “Uniform Agency Project Agreement”) relating to the granting of the Financial Assistance by the Agency to the Original Company, (D) the Agency filed with the assessor and mailed to the chief executive officer of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “Real Property Tax Exemption Form”) relating to the Project Facility

and the Payment in Lieu of Tax Agreement, (E) the Agency executed and delivered to the Original Company a sales tax exemption letter (the “Sales Tax Exemption Letter”) which ensured the granting of the sales tax exemption which formed a part of the Financial Assistance and (F) the Agency filed with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (the “Thirty-Day Sales Tax Report”) (collectively with the Lease Agreement, the “Basic Documents”); and

WHEREAS, on or about September, 2023, pursuant to an application (the “Initial Assignment Application”) submitted to the Agency by HN MacArthur 41 Cross Owner, LLC, a limited liability company organized and existing under the laws of the State of New York (the “Second Company”), the Agency was requested to consent to the assignment by the Original Company of the Project Facility and its interests in the Basic Documents to, and in connection with such conveyance, provide for the assignment of the Basic Documents from the Original Company to, the Second Company, as described in the Initial Assignment Application; and

WHEREAS, by resolution adopted by the members of the Agency on September 11, 2023 (the “Initial Assignment Resolution”), the Agency authorized (A) the assignment of the Basic Documents from the Original Company to the Second Company and (B) authorized the execution and delivery by the Agency of various documents in connection therewith including, without limitation, an assignment and assumption agreement dated as of October 1, 2023 (collectively, the “Initial Assignment Documents”); and

WHEREAS, in connection with the Initial Assignment Documents, the Original Company assigned the Project Facility and its interests in the Basic Documents to the Second Company; and

WHEREAS, pursuant to an application (the “Second Assignment Application”) submitted to the Agency on July 25, 2024 by 41 Cross Street LLC, a limited liability company organized and existing under the laws of the State of New York (the “Third Company”), the Agency has been requested (the “Request”) (A) to consent to the assignment by the Second Company of the Project Facility and its interests in the Basic Documents to the Third Company, and in connection with such conveyance, provide for the assignment of the Basic Documents from the Second Company to the Third Company as described in the Second Assignment Application; and (B) (1) to assist in the renovation, reconstruction and upgrading of the Project Facility by the acquisition and installation therein and thereon of certain machinery and equipment (the “Supplemental Project”), and (2) to grant certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the Supplemental Project including potential exemptions from certain sales and use taxes (the “Additional Financial Assistance”); and

WHEREAS, the Lease Agreement provides that the Second Company is prohibited from selling, leasing, transferring or otherwise conveying any part of the Project Facility without the prior written consent of the Agency; and

WHEREAS, in connection with the conveyance of the Project Facility, the Second Company and the Third Company have also requested that the Agency execute documents (collectively, the “Conveyance and Assignment Documents”) providing for the consent by the Agency to the conveyance of the Project Facility and the assignment and assumption of the Basic Documents from the Second Company to the Third Company (collectively, the “Second Assignment and Assumption”); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must

satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the execution and delivery of the Conveyance and Assignment Documents (referred to hereinafter as the “Action”); and

WHEREAS, pursuant to Section 859-a of the Act, prior to the Agency providing any “financial assistance” (as defined in the Act) of more than \$100,000 to any project, the Agency, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 859-a of the Act with respect to the Supplemental Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF COLUMBIA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(2), (26) and (32) of the Regulations, the Action is a “Type II action” (as said quoted term is defined in the Regulations).

(B) Accordingly, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under SEQRA with respect to the Action.

Section 2. The Agency hereby approves (A) the assignment to, and assumption by, the Third Company of all of the Second Company’s interest in the Project Facility, and the Basic Documents, including but not limited to the benefits of the Lease Agreement and the Payment in Lieu of Tax Agreement and (B) the assumption by the Third Company of all obligations of the Second Company under the Basic Documents pursuant to an assignment and assumption agreement (the “Assignment and Assumption Agreement”); subject in each case, however to the following conditions: (1) receipt of confirmation that all real property taxes and payments in lieu of taxes required by the Project have been satisfied; (2) evidence of current certificates of insurance acceptable to the Agency; (3) receipt of confirmation from Agency counsel that no modification provide any new tax relief for the Project (except for the Additional Financial Assistance as requested in the Second Assignment Application); (4) receipt by Special Counsel of the written consent of any holder of any current mortgage on the Project Facility with respect to the Conveyance and Assignment Documents or evidence that there are no security documents filed relating to the Project; (5) compliance with the terms and conditions contained in the Assignment and Assumption Agreement and the Basic Documents; (6) approval by counsel to the Agency of the Conveyance and Assignment Documents; and (7) receipt by the Agency of its administrative fee relating to the Request, as reviewed by the Chairperson of the Agency, Agency Counsel and Special Counsel, and all fees and expenses incurred by the Agency with respect to the Request, including the fees and expenses incurred by Agency Counsel and Special Counsel with respect thereto.

Section 3. Subject to (A) satisfaction of the conditions contained in Section 2 hereof, including the condition that no modification provide any new tax relief for the Project except for the Additional Financial Assistance as requested in the Second Assignment Application; and (B) the execution and delivery of the Conveyance and Assignment Documents by the other parties thereto, the Chairperson or Vice Chairperson of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Conveyance and Assignment Documents, and, where appropriate, the Secretary of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms thereof approved by Agency Counsel and Special Counsel to the Agency, with such changes, variations, omissions

and insertions as the Chairperson or Vice Chairperson shall approve, the execution thereof by the Chairperson or Vice Chairperson to constitute conclusive evidence of such approval.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Second Assignment Application, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the Second Assignment and Assumption and to cause compliance by the Agency with all of the terms, covenants and provisions of the Second Assignment Application.

Section 5. Based upon an examination of the Supplemental Project, the Agency hereby determines that since compliance by the Agency with the approval of the Supplemental Project will result in the Agency providing more than \$100,000 of “financial assistance” (as such quoted term is defined in the Act), the Agency hereby authorizes the Chief Executive Officer of the Agency, after consultation with the members of the Agency and Agency Counsel, (A) to establish the time, date and place for a public hearing of the Agency to hear all persons interested in the Project (the “Public Hearing”); (B) to cause the Public Hearing to be held in a city, town or village where the Supplemental Project is located, and to cause notice of such Public Hearing to be given to the public by publishing a notice or notices of such Public Hearing in a newspaper of general circulation available to the residents of the governmental units where the Supplemental Project is located, such notice or notices to comply with the requirements of Section 859-a of the Act; (C) to cause notice of the Public Hearing to be given to the chief executive officer of the county and of each city, town, village and school district in which the Supplemental Project is located to comply with the requirements of Section 859-a of the Act; (D) to conduct such Public Hearing; (E) to cause a report of the Public Hearing fairly summarizing the views presented at such Public Hearing (the “Report”) to be prepared; (F) to cause a copy of the Report to be made available to the members of the Agency; and (G) to cause this resolution to be sent via certified mail, return receipt requested to the chief executive officer of the county and of each city, town, village and school district in which the Supplemental Project is located to comply with the requirements of Section 859-a of the Act.

Section 6. All action taken by the Chief Executive Officer of the Agency in connection with the Public Hearing with respect to the Supplemental Project prior to the date of this resolution is hereby ratified and confirmed.

Section 7. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Carmine Pierro	VOTING	_____
Sarah Sterling	VOTING	_____
Nina Fingar-Smith	VOTING	_____
Robert Galluscio	VOTING	_____
Bill Gerlach	VOTING	_____
Brian Keeler	VOTING	_____
Rick Rector	VOTING	_____

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF COLUMBIA)

I, the undersigned Secretary of Columbia County Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the resolution contained therein, held on August 6, 2024 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this ___ day of August, 2024.

Secretary

(SEAL)